

§465-A. Loans to stockholders, directors or officers

1. Authorization. A financial institution authorized to do business in this State may make loans to its principal stockholders, policy-making officers or directors, or to any related interest of those persons, subject to the limitations contained in this section.

[PL 1991, c. 681, §3 (NEW).]

2. Terms and credit worthiness. A financial institution may not make a loan to any of its principal stockholders, policy-making officers or directors, or to any related interest of that person, unless the loan is made on substantially the same terms, including interest rates and collateral, as those generally available to the public, or to employees of the financial institution pursuant to a benefit or compensation program, and does not involve more than the normal risk of repayment or present other unfavorable features.

[PL 1997, c. 22, §19 (AMD).]

3. Prior approval. A financial institution may not grant a loan to any of its principal stockholders, policy-making officers or directors, or to any related interest of that person, in an amount that, when aggregated with the amount of all other loans to that person and all related interests of that person, exceeds the higher of \$25,000 or 5% of the financial institution's capital or unimpaired surplus, unless:

A. The loan has been approved in advance by a majority of the entire board of directors of the financial institution; and [PL 1991, c. 681, §3 (NEW).]

B. Any interested party has abstained from participating directly or indirectly in the voting. [PL 1991, c. 681, §3 (NEW).]

A financial institution may not make a loan to any one of its principal stockholders, policy-making officers or directors, or to any related interest of that person, in an amount that, when aggregated with the amount of all other loans to that person and all related interests of that person, exceeds \$500,000 except in compliance with the requirements of this subsection.

[PL 1991, c. 681, §3 (NEW).]

4. Participation in discussion. Participation by any principal stockholder, policy-making officer or director in the discussion or any attempt to influence the voting by the board of directors regarding a loan to the interested principal stockholder, policy-making officer or director, or any related interest of that person, constitutes indirect participation in the voting by the board of directors on the loan.

[PL 1991, c. 681, §3 (NEW).]

5. Lines of credit. Lines of credit to principal stockholders, policy-making officers or directors, or to any related interest of those persons, must be approved pursuant to the requirements of subsection 3. A loan granted under a line of credit approved pursuant to subsection 3 does not require prior approval pursuant to that subsection as long as the loan is granted within the term of the approved line of credit.

[PL 1991, c. 681, §3 (NEW).]

6. Liability for making. Every principal stockholder, officer, agent or employee of a financial institution who authorizes or assists in procuring or granting or who causes the granting of a loan in violation of this section or section 854, to the extent that the financial institution is subject to the provisions of section 439-A or 854, or who pays or willfully permits the payment of any funds of that institution on such a loan; every director of a financial institution who votes on a loan in violation of any of the provisions of this section; and every director, principal stockholder, officer, agent or employee who knowingly permits or causes any of those actions to be done is personally responsible for payment of the loan and is guilty of a Class E crime. For purposes of this subsection, "agent" or "employee" does not include an individual who is incidentally involved in the preparation of documents or title work related to a loan.

[PL 1997, c. 398, Pt. L, §7 (AMD).]

7. Violations. A loan granted in violation of this section is due and payable immediately, without demand, whether or not it appears on its face to be a time loan. If the superintendent finds a loan outstanding in violation of this section or section 439-A or 854, the superintendent shall notify the president, clerk or treasurer of the financial institution to cause that loan to be paid immediately. If the loan is not paid within 30 days or such further time as the superintendent determines, the superintendent shall report the facts to the Attorney General, who shall commence a civil action in the name and for the benefit of the financial institution for the collection of the loan. The Attorney General may employ special counsel to prosecute the civil action. The financial institution shall pay all expenses of special counsel, to be recovered in a civil action in the name of the State.

[PL 1991, c. 681, §3 (NEW).]

8. Rulemaking. The superintendent may adopt rules to administer and carry out this section.

[PL 1991, c. 681, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 681, §3 (NEW). PL 1997, c. 22, §19 (AMD). PL 1997, c. 398, §L7 (AMD).

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